IN THE HIGH COURT OF JUDICATURE AT BOMBAY
O.O.C.J.

WRIT PETITION NO.2350 OF 1998

Kaiki Rustomji Alpaiwalla and others. ... Petitioners.

Versus

The State of Ma**harashtra and another** .. Respondents.

Mr.P. Chavhan i/b Mr. Madekar and Co. for the petitioner.
None for the respondent.

WITH

WRIT PETITION NO.2351 OF 1998

Kaiki Rustomji Alpaiwalla and others ....Petitioners.

Versus

The State of Maharashtra and another..... Respondents.

Mr.P.Chavhan i/b Madekar and Co. for petitioner.
None for respondent.

CORAM: R.M.S.KHANDEPARKAR &
V.M.KANADE,JJ.
DATE : SEPTEMBER 27, 2005.

-ORAL JUDGEMENT (PER V.M.KANADE,J)-

1. Both these Writ Petitions can be disposed of by common Judgement since common question of law is involved in both the petitions.

2. Brief facts relevant for the purpose of deciding the Writ petitions are as under;

Two flats owned by the petitioners were requisitioned by Order dated 14.6.1950 and they were allotted to respondent no.2 in both the petitions by order dated 1.12.1959. Pursuant to the said order of allotment, respondent no.2 in each Writ Petition continued to occupy the said flats. The Supreme Court in the case of Grahak Sanstha Manch and others versus State of Maharashtra reported in (1994)4 Supreme Court Cases 192, was pleased to direct the Government to de-requisition the premises and hand over possession to the owners. In view of the said judgement of the Supreme Court the petitioners filed aforesaid two Writ Petitions for quashing the order of requisition passed by the respondent and also sought direction that the possession of the flats be restored. During the pendency of petition, the State Government amended provisions of Rent Act and gave protection to all Government allottees by declaring them as deemed tenants under the Act. The validity of amendment was challenged in this court and this court struck down the said amendments which were made by the Government. The Supreme Court, however, upheld the validity of the said amendments made to the Rent Act in case of Welfare Association,

A. R. P. Maharashtra and Another versus Ranjit P. Gohil and others reported in (2003) 9 S. C. C. 358.

Before the Supreme Court pronounced the decision in Welfare Association, A.R.P.Maharashtra and Another versus Ranjit P. Gohil and others case (Supra), the petitioners amended the petition and challenged the validity fo Amendment Act 1997.

2. In view of judgement of Supreme Court in Welfare Association,A.R.P.Maharashtra and Another versus Ranjit P.Gohil and others case (Supra), challenge to the validity of amendment Act of 1997 fails.

3. By virtue of Amendment to the Rent Act, respondent no.2 are now deemed to be tenants under the Rent Act. In view of this submission made by learned counsel for the petitioners, cannot be accepted. Both the Writ Petitions are accordingly, dismissed.

(R.M.S.KHANDEPARKAR,J)

(V.M.KANADE,J)